REMARKS/ARGUMENTS

The rejections presented in the Office action dated January 26, 2005 have been considered. Claims 1-45 are pending in the application. Claims 1, 2, 33, and 34 have been amended. New claims 44 and 45 have been added. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Claims 1-16, and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,085,976 issued to *Sehr* in view of U.S. Patent No. 5,910,987 issued to *Ginter et al.* (hereinafter *Ginter*). Claims 33 and 34 were rejected by the Examiner over the combination of *Sehr* and *Ginter* by the same rationale that was used in the rejection of claim 1. Claims 19-27, 29-41, and 43 also stand rejected as being unpatentable over the combination of *Sehr* and *Ginter*.

To establish *prima facie* obviousness of a claimed invention, the Examiner has the burden of proving that three basic criteria are met. First, there must be some suggestion or motivation to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest <u>all</u> the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure. All three of these criteria must be met in order to support a finding of prima facie obviousness of a claimed invention (see, e.g., MPEP § 2142).

Considering the third criteria for *prima facie* obviousness listed above, the Applicants respectfully assert that *Sehr* and *Ginter*, alone or in combination, do not teach or suggest all of the elements of Applicants' invention as recited, for example, in independent claims 1, 19, 29, 33, 34, 35, and 41.

For example, with respect to amended claims 1, 33, and 34, *Sehr* does not teach retrieving an access ticket object from a download server. *Sehr* describes storing and retrieving the access ticket object from the passenger card, not from a download server. A control module reads the card data, including the electronic ticket <u>stored in the card</u>, verifies

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the data, and stores data in the card. (*see e.g., Sehr,* col. 11, lines 66-67) The ticket described by *Sehr* is not retrieved from the download server, as in claims 1, 33, and 34. In further contrast to claims 1, 33, and 34, and as noted by the Examiner, *Sehr* fails to teach delivering the content to a user terminal identified by the access ticket object if the content download is authorized.

Ginter does not overcome the deficiencies of *Sehr*. *Ginter* describes methods and systems for management of secure transactions and protection of electronic rights. *Ginter* teaches various methods of accessing content, but does not describe or suggest <u>ticket-based</u> <u>access</u> to content. The Examiner points to col. 222 lines 30-61 as evidence that *Ginter* teaches delivering content to a user terminal identified by the access ticket object if the content download is authorized. However, this passage does not support the Examiner's assertion because *Ginter* does not contemplate the use of an access ticket. Thus, *Ginter* cannot teach a ticket object retrieved from a download server and used to authorize content downloads. *Ginter* fails to teach or suggest retrieving an access ticket object from the download server. Ginter also fails to teach or suggest delivering the content to a user terminal identified by the access ticket object if the content download is authorized. Neither *Sehr* nor *Ginter* teach or suggest all of the claim elements of claims 1, 33, and 34, therefore, these claims are patentable over the combination of *Sehr* and *Ginter*.

With respect to claims 19, 29, 35, and 41, *Sehr* and *Ginter*, alone or in combination, do not teach or suggest all of the claim limitations. For example, neither *Sehr* nor *Ginter* teach a service handler configured to deliver to the network service a corresponding ticket address of the ticket object in the storage module.

The Examiner points to col. 113, lines 30-37, and col. 176 lines 29-59 of *Ginter* as evidence that *Ginter* teaches a service handler that delivers a ticket address of the ticket object. Applicants respectfully assert that *Ginter* is silent as to ticket objects and thus cannot teach a service handler configured to deliver a ticket address.

At col. 113, lines 30-37, *Ginter* describes a memory management interrupt handler and does not mention access tickets or ticket-based access to content.

At col. 176, lines 29-59, *Ginter* describes a process for registering software. The process described by *Ginter* does not contemplate the use of an access ticket. Further,

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Ginter does not teach a service handler that delivers a ticket address to a network service as in Applicants' claims 19 and 29. Further, *Ginter* does not teach or suggest providing a ticket address of the ticket to the service as in Applicants' claim 41, or notifying the terminal of a ticket address corresponding to a stored location of the access ticket as in Applicants' claim 35, among other elements.

Neither *Sehr* nor *Ginter* teach or suggest a download server comprising a transaction handler configured to receive download transaction requests identifying the ticket address. The servers mentioned in *Sehr* do not receive transaction requests identifying the ticket address. The section in *Ginter* (col. 232, lines 5-38) referenced by the Examiner as providing this claim element instead teaches a portable auxiliary terminal that allows commercial transactions at points other than traditional cash registers. The referenced section of *Ginter* does not teach ticket-based access and does not teach a transaction handler that receives download transaction requests identifying an access ticket address. *Sehr* and *Ginter*, alone or in combination, do not teach all of the claim elements as recited in claims 19, 29, 35, and 41 as required to establish *prima facie* obviousness. For at least these reasons, claims 19, 29, 35, and 41 are patentable over the combination of Sehr and Ginter.

Regarding the first requirement of *prima facie* obviousness, the asserted references do not provide a suggestion or motivation to modify the reference or to combine reference teachings. It is a requirement that actual evidence of a suggestion, teaching or motivation to combine prior art references be shown, and that this evidence be "clear and particular." In re Dembiczak, 50 USPQ2d 1614 (Fed. Cir. 1999). Broad conclusory statements regarding the teaching of references, standing alone, are not evidence. Id.

The Examiner points to col. 3, lines 37-40 of *Sehr* as supplying the requisite motivation to combine the teachings of the references. At col. 3, lines 37-40, *Sehr* states "The invention further includes a method for using a cryptographic scheme to authenticate the cardholder or system information and to guarantee a secure information exchange." The mere mention of cryptography in *Sehr* does not lead one skilled in the art to devise a system that uses access tickets stored and retrieved from a download server to control access to content.

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In contrast, the teachings of *Sehr* discourage authorizing content downloads based on information retrieved from a download server, because in *Sehr*, the transportation data is stored in the passenger card so that retrieval of the access ticket from a download server is not required. (see, e.g., Sehr, col. 6, lines 26-28: "the data stored in the card includes the equivalent of an electronic ticket for a particular itinerary")

Further, Applicants assert that the statement by *Ginter* at col. 1 lines 23-26, referenced by the Examiner, does not provide the requisite motivation to combine the reference teachings. In the referenced section, *Ginter* states: "The invention also relates to systems and methods for protecting rights of various participants in electronic commerce and other electronic or electronically-facilitated transactions." This general statement does not suggest to a person skilled in the art a system that provides ticket-based access to content including an access ticket object stored in and retrieved from a download server and used to authorize a content download.

Regarding the second requirement of *prima facie* obviousness, there is no reasonable expectation that a combination of *Sehr* and *Ginter* would lead to success with respect to Applicants' invention. Because neither of the references teach or suggest, for example, a network service having a download server wherein an access ticket object is stored, a hypothetical system based on the combination of *Sehr* and *Ginter* would not include this aspect of the Applicants' invention and also would not include other aspects related to the address of the ticket object, among other features.

Because *Sehr* and *Ginter*, alone or in combination, fail to teach or suggest several of the above-identified limitations, and because the asserted combination does not provide a sufficient basis to support a reasonable expectation of success or the requisite suggestion or motivation to combine or modify the references in the manner suggested by the Examiner, Applicants respectfully assert that the Examiner has failed to establish *prima facie* obviousness of Applicants' subject matter recited in independent claims 1, 19, 29, 33, 34, 35 and 41.

Claims 17 and 42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Sehr* and *Ginter* in further view of U.S. Patent No. 6,317,783 issued to *Freishtat et al.* (hereinafter *Freishtat*). Claims 17 and 42 depend from claims 1 and 41, respectively.

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The Examiner states that the combination of *Sehr* and *Ginter* teaches the method of claims 1 and 41 using the same rationale used in the rejections of claims 1 and 41. With reference to claim 17, the Examiner states that the combination of *Sehr* and *Ginter* fails to disclose a method wherein delivering the content to a user terminal comprises delivering an XML document, but that *Freishtat* supplies this element.

For the reasons discussed above, Applicants assert that claims 1 and 41 are patentable over the combination of *Sehr* and *Ginter*. *Freishtat* does not overcome the deficiencies of *Sehr* or *Ginter*. For example, *Frieshtat* does not teach or suggest retrieving an access ticket from a download server or authorizing a content download to a user terminal based on the retrieved access ticket as in claim 1. Furthermore, *Frieshtat* does not teach or suggest, for example, providing a ticket address of the ticket to the service for use by the terminal or receiving a first transaction request including the ticket address from the terminal. Because all of the claim elements of claims 17 and 42 are not described or suggested by the asserted references, claims 17 and 42 are patentable over the combination of *Sehr*, *Ginter*, and *Freishtat*.

Claim 28 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Sehr* and *Ginter* and in further view of U.S. Patent No. 6,112,085 issued to *Garner et al.* (hereinafter *Garner*). Claim 28 depends from claim 27 which in turn depends from independent claim 19.

Regarding claim 28, the Examiner states that the combination of *Sehr* and *Ginter* teaches the download server as in claim 27, but fails to disclose a server wherein the user terminal identifier is a mobile station ISDN/PSTN Number (MSISDN).

Applicants assert that claim 27, which depends from claim 19, is patentable over the combination of *Sehr* and *Ginter* for the same reasons discussed above with respect to independent claim 19. For example, *Garner* does not describe a download server comprising a storage module and a transaction handler configured to retrieve a ticket object from the download server storage module based on the ticket address. Further, *Garner* does not authorize a download transaction based on the access parameters of the retrieved ticket object. Thus, *Garner* does not overcome the deficiencies of the *Sehr-Ginter* combination
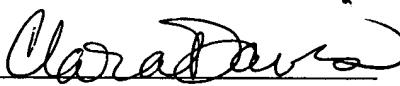
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with respect to base claim 19. For at least these reasons, claim 28 is patentable over the combination of *Sehr*, *Ginter*, and *Garner*.

Without acquiescing to the Examiner's characterization of the asserted references as they have been applied to Applicants' rejected dependent claims, Applicants believe it unnecessary to address the specific grounds for rejection in view of the clear grounds for patentability of the claims from which they respectively depend. These dependent claims include all of the limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims from the cited references. "If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious." M.P.E.P. §2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Applicants, however, reserve the right to address these rejections should the Examiner maintain the rejection of the base claims, notwithstanding Applicants' remarks presented hereinabove.

If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact him at 651-686-6633 (x111) to discuss any issues related to this case.

Respectfully submitted,

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